



Kimberly-Clark Corporation

OFFICIAL

Facsimile

Examiner: Technology Center 1600 Subject:	Name	Group Art Unit	Company
	Ralph J. Gitomer	1651	U.S.P.T.O.
	703/ 872-9306 (Before Final)		FAX RECEIVED JUN 05 2003
	703/ 872-9307 (After Final)		
	Response to Office Action dated May 5, 2003		GROUP 1600
	Applicant: McMichael et al.	Docket No. 17,350	
	Serial No.: 09/977,667		
	Confirmation No.: 3464		
Filed: October 15, 2001			
For: Diagnostic Testing System And Method For Detecting Helicobacter Pylori			

From: William W. Letson (42,797)	Total Pages: 4 , including cover sheet
Dept: Patent / Legal Department	Date: June 4, 2003
Loc: Roswell, Georgia	

Please forward to **Examiner Gitomer**.

Thank you.

Enclosures:

(1) Response

This facsimile is for the use of the addressee only and may contain privileged or confidential information that is exempt from disclosure under law. If you are not the addressee or responsible for delivering it to him or her, please know that dissemination, distribution, or copying of this facsimile is prohibited. If you have received this in error, please call phone us promptly and destroy the original.

If you have a problem with or a question about this facsimile, contact:

Name: Vickie Trent

Fax: (770) 587-7324

Phone: (770) 587-8819

In the United States Patent and Trademark Office

Applicants: Donald J. McMichael et al. Docket No.: 17,350
Serial No.: 09/977,667 Group: 1651
Confirmation No: 3464 Examiner: Ralph J. Gitomer
Filed: October 15, 2001

For: Diagnostic Testing System And Method For Detecting Helicobacter Pylori

#B
A.9
6/18/03

Response to Restriction Requirement With Traverse

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement mailed May 5, 2003, Applicants respectfully **provisionally elect** the Group 1-16 claims to be prosecuted by way of the present application. That is, Applicants elect claims 1-16 for prosecution in the present application.

This election is made **with traverse**. Applicants specifically reserve the right to seek patent protection for non-elected subject matter by divisional application.

Applicants respectfully submit that the Examiner's restriction requirement is in error because claims 17-50 were not classified and therefore the Examiner's statement that the "inventions are distinct.....as shown by their different classification" is both incorrect and improper. It is submitted that unless classified claims 17-50 should be deemed to fall within classification of claims 1-16.

The undersigned may be reached at: (770) 587-7183.

Respectfully submitted,

MCMICHAEL ET AL.

By: 

William W. Letson

Registration No.: 42,797

CERTIFICATE OF FACSIMILE

I, Veronica A. Trent, hereby certify that on June 4, 2003 this document is being faxed to United States Patent and Trademark Office; Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at the following number the following number (703) 872-9306.

By: 

Veronica A. Trent



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,667	10/15/2001	Donald J. McMichael	17350	3464

23556 7390 05/06/2003

WWT
KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

MAY 12 2003

EXAMINER

GITOMBR, RALPH J

ART UNIT	PAPER NUMBER
----------	--------------

1651

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,887

Applicant(s)

Peterson et al.

Examiner

Ralph Gitomer

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 15, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-50 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |